

Received via email

May 30, 2003

Attention Mr. Paul Helliker,

Please review our additional comments to the Environmental Justice Implementation Plan for the CDPR.

We have added onto the comments already submitted by California Environmental Rights Alliance.

Thank you,

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Environmental Justice Implementation Plan for the California Department ~~Of~~ of Pesticide Regulation

**DRAFT
(March 2003)**

Environmental Justice Definition: California law defines environmental justice as “[~~t~~**f**]he fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Government Code Section 65040.12)

BACKGROUND

California Environmental Protection Agency Mandates

California law mandates broad responsibilities for California Environmental Protection Agency (Cal/EPA) and its boards, departments, and offices (BDOs) to incorporate environmental justice goals into their policies and programs. The law requires the formation of an interagency working group made up of the Cal/EPA Secretary, BDO chiefs, and the director of the State Office of Planning and Research (OPR). It also mandates formation of an external advisory group to the working group. These groups are to assist Cal/EPA in developing an agencywide environmental justice strategy and to provide procedural recommendations to ensure meaningful public participation in Cal/EPA activities.

Cal/EPA is specifically required by statute to do the following:

1. Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
2. Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations in the state.
3. Ensure greater public participation in the Agency's development, adoption, and implementation of environmental regulations and policies.
4. Improve research and data collection for programs within the agency relating to the health and environment of people of all races, cultures, and income levels, including minority and low-income populations of the state.
5. Coordinate efforts and share information with the U.S. Environmental Protection Agency.
6. Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the Agency.

7. Consult with, and review any information received from, the working group on environmental justice established to assist Cal/EPA in developing an agency-wide strategy that meets the above requirements.

Development of the Cal/EPA Environmental Justice Strategy must include the following activities, as required by Public Resources Code section 71113:

1. Examine existing data and studies on environmental justice and consult with state, federal, and local agencies, and affected communities.
2. Identify and address any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.
3. Develop procedures for the coordination and implementation of intra-agency environmental justice strategies.
4. Collect, maintain, analyze, and coordinate information relating to environmental justice.
5. Develop procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. Develop guidance for determining when it is appropriate for Cal/EPA or its BDOs to translate crucial public documents, notices, and hearings relating to human health or the environment for limited English-speaking populations.
6. Make a draft available to the public and hold public meetings to receive and respond to public comment before finalizing the strategy.

DPR Implementation

This is an implementation plan for incorporating environmental justice principles into Department of Pesticide Regulation (DPR) programs, policies, and activities. ~~DPR's environmental justice policy follows Cal/EPA's Environmental Justice Strategy.~~

We restate that environmental justice is the *fair treatment* and *meaningful involvement participation* of all people regardless of race, culture, and income with respect to the development, implementation, and enforcement of DPR regulations and policies. *Fair treatment* means that no ~~one~~ group of people, ~~including race, culture, or socioeconomic~~, should be exposed to pesticides, or bear a disproportionate share of suffer negative health or environmental consequences resulting from pesticide use, ~~or the execution of DPR programs and policies~~. Fair treatment also means that DPR will undertake targeted efforts to address pesticide exposure and health risk problems in the most heavily impacted areas and among disproportionately impacted populations. *Meaningful involvement participation* means that: (1) potentially affected persons have an appropriate opportunity to participate in decisions that affect their environment and/or health; (2) DPR will collaborate with community-based organizations that work with potentially affected persons to conduct pesticide safety outreach and education ~~(2)~~ (3) DPR clearly identifies

~~how the public's contribution~~ participation can influence, and has influenced, DPR's decisions; (3) the concerns of all participants involved will be considered in the decisionmaking process; ~~and~~ (4) the decisionmakers seek out and facilitate the early and continuous involvement participation of those potentially affected; ~~and~~ (5) outcomes are communicated to those potentially affected.

DPR Environmental Justice Implementation Plan Elements

1. DPR will incorporate environmental justice values and perspectives into all of our programs, policies, actions, and regulations.

Fair treatment of all people is an overarching value guiding how we do business operate. We will ensure that environmental justice values and perspectives inform and illuminate our standard operating practices.

Specific Actions

- ~~Encourage~~ Require DPR staff and county agricultural commissioner (CAC) staff to attend scheduled environmental justice training programs. By July 2004, all DPR and CAC staff will have attended an environmental justice training program.
- Develop a staff and funding allocation plan by January 1, 2004, to assure the successful execution of DPR's Environmental Justice Implementation Plan.
- Adopt a work plan by April 1, 2004, to establish achievable, measurable, and time-bound goals and activities related to this Implementation Plan. Immediately begin work on the development of this work plan.
- Maintain staff awareness of the importance of environmental justice by placing a discussion of environmental justice principles and efforts to fulfill our commitment on the agenda of DPR's managers/supervisors staff meetings, ~~on a regular basis.~~
- Recognize the importance of environmental justice priorities and accomplishments by highlighting them in DPR's annual progress reports.
- Improve the ~~use~~ functioning of all DPR's advisory committees to solicit recommendations on how DPR can ~~improve~~ address environmental justice concerns in its programs ~~in an equitable manner.~~ Broaden the membership in all DPR advisory committees to include representation from environmental justice advocacy groups and individuals from low-income communities and communities of color.
- Consider environmental justice when creating or modifying policies, programs, and procedures.
- Work with affected populations to discuss, consider, and develop ways to incorporate precautionary actions and alternatives analyses into DPR's decision-making processes.

- Ensure that hiring and career advancement practices promote a diverse work force- while improving recruitment and retention of multi-lingual and multi-cultural staff, particularly in positions that include investigation and outreach responsibilities.

2. DPR will integrate environmental justice considerations ~~in~~-when developing communications to ensure meaningful public participation and promote community outreach.

DPR ~~wants to enhance~~will work to increase the participation of the public in state and local decisionmaking processes, and ensure that potentially affected parties are not overlooked and excluded from the process. We recognize that public participation involves two-way communications, with DPR receiving information, comments, and advice, as well as disseminating information on possible approaches, analyses, and decisions. To ensure meaningful participation, DPR will actively solicit input from communities, develop additional information on pesticides, make this information more accessible, and educate communities on the public process used to make state and local decisions. The Department recognizes the validity and importance of community knowledge, and the value of local and grassroots experiences in issues and decisions that affect them. The Department has an obligation to ensure that those affected by decisions have a voice ~~are equal players~~ in the decisionmaking processes. DPR will assure that community input is recorded and included in all DPR decisions. DPR recognizes the limitations on the capacity of some communities to participate in decision-making processes.

Specific Actions

- Seek out and facilitate the early and continuous (i.e., front end) involvementparticipation of those primarily affected by DPR's decisions, programs, and policies, recognizing that in doing so we have made a commitment to ~~seriously~~-consider seriously the input of the public.
- Prior to April 1, 2004, create and widely distribute a Public Participation Guidebook that provides information about the roles and responsibilities of the governmental agencies involved in pesticides issues, key environmental laws and regulations, public hearing and permitting processes, and how interested people can become involved in DPR decision-making processes.
- Hold meetings in affected communities at times and in places that encourage public participation, such as evenings and weekends, at centrally located and easily accessible meeting rooms, libraries, and schools.
- Ensure that affected people have the opportunity to participate in the development of policies and regulations by improving public notice processes, expanding mailing lists, and identifying opportunities for publicity of public meetings through culturally and linguistically diverse media outlets.

- ~~Identify opportunities to e~~Enhance accessibility to information, including translating materials and documents, making documents easily accessible in the community by having radio announcements on community radio stations and by offering free copies to community based organizations(~~either~~ by physically providing copies at central locations; and ~~or~~ posting them on DPR's Web site); and providing translation services at hearings and workshops as needed. Communicate to participants how and why their advice was or was not utilized.
- Consistent with right-to-know principles, improve access and utility of DPR data, especially pesticide use data. Improve the utility of data by providing ready access to detailed data specific to date and localized area of use.

3. DPR will conduct evaluations of the level and potential impacts of pesticide exposure and reduce or mitigate exposures to pesticides ~~risk-assessments in a ways to that~~ consider the potential disproportionate environmental impacts on communities of color and low-income populations.

Human health and environmental research and assessment are cornerstones of informed decisionmaking to ensure a healthy environment. DPR must have a better sense of how to ~~address issues of~~prevent and eliminate disproportionate impacts of pesticide use on communities. The goal is not to shift risks among populations, but to identify known and potential disproportionately high exposures and adverse effects and identify alternatives ~~that may to prevent exposure or~~ mitigate ~~these adverse~~ impacts.

Specific Actions

- Continue to conduct evaluations of the level and potential adverse effects of pesticide exposure ~~risk-assessments~~ taking into account sensitive populations, combined occupational and residential exposures, and other ~~unique~~ exposure scenarios; ~~and~~ Consider cumulative and combined exposure impacts; and the potential implications of data limitations and other uncertainties in assessing these impacts.
- Recognize that the impacts within ~~minority populations~~communities of color, low-income populations, ~~or and~~ Indian-Native American tribes may be different from impacts on the general population due to a community's distinct cultural practices or level of access to basic service. For example, data on different patterns of living, such as subsistence fish, vegetation, or wildlife consumption and the use of well water or surface water in rural communities may be relevant to the analysis. Many farmworkers have limited access to bathing and laundry facilities and extremely limited access to transportation for travel to health clinics or farm headquarters. DPR will incorporate these considerations into the data gathering and decisionmaking processes; for example, conducting studies to assess the potential exposure of Indian plant gatherers and users to forestry herbicides.
- ~~Mitigate~~ Prevent and eliminate high exposures and unacceptable risks ~~for all the identified races, cultures, and incomes~~. Develop the mitigation measures with the ~~involvement~~participation of the affected parties. Throughout the process of public

participation, DPR will elicit the views of the affected populations on measures to mitigate a disproportionately high pesticide exposures and potential adverse human health or environmental effects on a low-income populations, ~~minority population~~communities of color, or ~~Indian-Native American~~ tribes, and consider community views in developing and implementing mitigation-prevention strategies. Where these communities are still exposed to pesticides, develop and implement exposure mitigation strategies in partnership with affected peoples.

4. DPR will conduct its enforcement program and work with CACs to ensure the state-county program protects all races, cultures, and incomes.

DPR will work with the CACs to ensure the state-county enforcement program is accessible and responsive to and protects all races, cultures, and incomes. DPR and the CACs will work vigorously to enhance compliance with pesticide use ~~compliance~~regulations, acknowledging that this increases protections for all California ~~citizens~~residents. DPR wants to assure that all complaints are promptly and thoroughly investigated and investigation and enforcement action results are communicated~~feedback is provided~~ to the complainants in a manner they understand~~public on actions taken~~. DPR will also prioritize our enforcement resources to maximize the greatest public good and seek appropriate mitigation and penalties to provide adequate deterrence to future acts of non-compliance.

Specific Actions

- Examine opportunities to improve the pesticide use permitting processes by increasing public access to the process and permitting records ~~and to ensure the~~ protection of all races, cultures, ~~and~~ incomes, and potentially impacted areas.
- Ensure enforcement investigations are conducted in a way to reduce the potential for retaliation against workers or complainants.
- Continue to develop and distribute materials in various languages describing how ~~citizens~~ people can file complaints, including the right to file anonymous complaints and make telephone listings for DPR and CACs easier to find in telephone directories and through directory assistance.
- Make DPR written policies and procedures on filing and investigating complaints easily accessible, including posting on ~~the~~ DPR's Web site.
- Continuously evaluate compliance with pesticide rules and regulations to prioritize enforcement resources.
- Evaluate uniformity of compliance actions to ensure that communities receive equal protection and seek appropriate mitigation and penalties to provide adequate deterrence to future acts of non-compliance.

- Prepare state enforcement priorities to address areas of greatest exposure and risk.
- Improve the state and local response to pesticide incidents, in part by working with CACs to develop effective complaint-resolution processes.
- Continue to improve the accessibility of information regarding enforcement activities and actions.

5. DPR will ~~continue~~ improve efforts to reduce ~~the pesticide risks to~~ exposure among workers and their families.

The occupational setting poses the greatest risk of pesticide exposure and resulting adverse health impacts to workers and their families. Many occupational settings involve workers of low-income and minority populations. Families of workers exposed to pesticides may be disproportionately exposed through residues taken home on clothing and transferred to vehicles or the home environment. DPR will ~~continue to~~ evaluate ~~the risks to~~ cumulative impacts from work, residential, and dietary exposure to multiple pesticides among workers and their families. DPR will ensure ~~their workers' rights to~~ unimpeded access at the work site to information about pesticides they are exposed to and the right to file complaints without fear of retaliation, ~~and~~ DPR will reduce the potential for worker illnesses by providing pesticide safety outreach and implementing regulations that reduce direct exposure during and after pesticide applications (including reducing exposure to pesticide residues and post-application drift that persists for days after applications). DPR will ensure that the level of protection provided to workers is equal to that provided to the general public and workers in other industries.

Specific Actions

- Improve investigation procedures to reduce the potential for retaliation against workers who have reported symptoms of pesticide illness or filed complaints.
- Continue efforts to improve physician reporting of pesticide-related illnesses.
- Work with the Department of Industrial Relations on retaliation complaints and timely transmittal of work illness reports that may involve pesticides.
- Improve ~~the~~ access to pesticide information at the work site, in English for English-proficient workers and in appropriate other languages for non-English speakers ~~especially by limited English-speaking populations.~~
- Collaborate with non-profit organizations to conduct pesticide safety outreach for potentially impacted persons, including workers and their families. Outreach should be conducted in a safe and culturally appropriate environment, language and media outlet, such as Spanish radio.
- Periodically assess the implementation, enforcement, and effectiveness of worker safety rules and regulations, revising them as necessary to address identified problems. Promptly eliminate exposures with the potential to cause adverse health effects. Respond in a timely

[manner to worker concerns.](#)

- Ensure farmworker representatives have substantial input into decisions affecting their constituents.
- Periodically review DPR's registration and evaluation policies and procedures to ensure that worker protections are actively and adequately considered. For example, deciding when to allow continued use of existing stocks of a ~~canceled-banned~~ pesticide [or evaluating the impact on agricultural workers and their families of allowing pesticide use on selected crops while prohibiting such uses on other crops.](#)

6. Distribution of DPR's pollution prevention resources will be accessible to all races, cultures, and incomes.

Grants and other opportunities can result in changes in pest management that reduce the risks from pesticides. This is especially important in [communities of color and](#) low-income ~~and minority~~ areas. Pest management in schools can be done in a way that ~~poses the least risk~~ [minimizes pesticide use and exposures with priority given to reducing use of and exposures to higher toxicity pesticides.](#)

Specific Actions

- Target grant programs in [communities of color and](#) low-income ~~and minority~~ areas, particularly to assist community-based/grassroots organizations ~~that are~~ working on local solutions to local environmental problems.
- [Provide funding to assist in increasing the capacity of communities to give meaningful input into regulatory processes and implementing use of safe alternatives to hazardous pesticides.](#)
- Facilitate the adoption of integrated pest management in schools, especially in rural and low-income areas.
- Provide informational materials in English ~~and~~ Spanish, [and other relevant languages](#) to the public about pesticide use and disposal [and make telephone listings for DPR, CACs and waste disposal facilities easier to find in telephone directories and through directory assistance.](#)